

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

THE CHEROKEE NATION, )  
THE CHICKASAW NATION, and )  
THE CHOCTAW NATION, )

Plaintiffs, )

and )

THE CITIZEN POTAWATOMI NATION, )  
THE MUSCOGEE (CREEK) NATION, )  
THE QUAPAW NATION, )  
THE DELAWARE NATION, )  
THE COMANCHE NATION, )  
THE SEMINOLE NATION, )  
THE OTOE-MISSOURIA TRIBE, and )  
THE WICHITA AND AFFILIATED TRIBES, )

Plaintiffs/Intervenors, )

vs. )

Case No. CIV-19-1198-D

J. KEVIN STITT, in his official capacity as )  
the Governor of the State of Oklahoma, and )  
ex rel. STATE OF OKLAHOMA, as the real )  
party in interest, )

Defendants/Counterclaimants. )

**OKLAHOMA’S MOTION TO HOLD MEDIATION IN ABEYANCE PENDING  
RESOLUTION OF MOTION TO CLARIFY AND BRIEF IN SUPPORT**

Defendant/Counterclaimant J. Kevin Stitt, in his official capacity as Governor of the State of Oklahoma (the “Governor”) and *ex rel.* State of Oklahoma (the “State”) as the real party in interest (collectively referred to as “Oklahoma”), submits this Motion to Hold Mediation in Abeyance (the “Motion”).

This Court originally ordered the parties to participate in mediation, which was to be substantially completed no later than March 31, 2020 (Doc. No. 31). That deadline has twice been extended, once until May 31, 2020, as a result of the COVID-19 pandemic (Doc. No. 101), and more recently, until June 30, 2020 (Doc. No. 122).

As described in more detail in Oklahoma's Motion to Clarify Parties' Authority to Comply with Court's Mediation Order (the "Motion to Clarify") (Doc. No. 131), circumstances have arisen that casts doubt on the parties' continued ability to participate in good faith in a mediation that could result in a resolution of this dispute. These include an opinion of the Oklahoma Attorney General purporting to curtail the Governor's authority with regard to settlements reached with two parties as a result of the mediation, and the actions of many of the litigating Tribes to challenge and interfere with those same settlements. The propriety of such challenges to the Governor's authority is the basis of the Motion to Clarify.

Given the uncertainty created by the actions of the Attorney General and other parties before this Court, Oklahoma (and the mediation process) needs the Court's direction as to the parties' ability to comply with the Mediation Order, specifically the Governor's authority under federal and other applicable law to negotiate and enter into compacts such as the ones resulting from the mediation thus far. Oklahoma respectfully requests that the mediation be held in abeyance until resolution of the Motion to Clarify by the Court in order to conserve the time, efforts, and resources of the parties that would otherwise be devoted to mediation efforts.

For these reasons, Oklahoma respectfully requests that the Court issue an order holding the mediation in abeyance until the Court's resolution of Oklahoma's Motion to Clarify (Doc. No. 131).

Respectfully submitted by:

*s/Phillip G. Whaley*

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AND *EX REL.* THE STATE OF OKLAHOMA**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2020, I electronically transmitted the attached document to the Clerk of Court using the Electronic Filing System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

*s/Phillip G. Whaley*  
Phillip G. Whaley